

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARETH PERRY,

Plaintiff,

v.

UNITED STATES PENITENTIARY,
ATWATER,

Defendant.

No. 1:20-cv-00279-NONE-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN PART AND
DISMISSING ACTION FOR FAILURE TO
OBEY A COURT ORDER

(Doc. No. 21)

Plaintiff Gareth Perry is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 9, 2021, the assigned magistrate judge filed a screening order, finding that plaintiff's first amended complaint fails to state a claim on which relief can be granted. (Doc. No. 18.) The magistrate judge granted plaintiff leave to file a second amended complaint. (*Id.* at 8.) Plaintiff failed to file an amended complaint or otherwise respond to the screening order.

Therefore, on April 22, 2021, the magistrate judge issued an order to show cause why this action should not be dismissed. (Doc. No. 19.) The judge cautioned plaintiff that "[f]ailure to comply with this order w[ould] result in a recommendation that this action be dismissed for failure to state a claim and to obey court orders." (*Id.* at 2.) Plaintiff failed to respond to the order to show cause.

1 Accordingly, on June 3, 2021, the magistrate judge filed findings and recommendations,
2 recommending that this action be dismissed for plaintiff's failure to state a claim and to obey
3 court orders. (Doc. No. 21.) The findings and recommendations were served on plaintiff and
4 provided him 14 days to file objections thereto. (*Id.* at 2.) Plaintiff has not filed any objections,
5 and the time do so has passed.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
7 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings
8 and recommendations to be supported by the record and proper analysis insofar as it recommends
9 dismissal for failure to comply with a court order. The court declines to address any alternative
10 ground for dismissal.

11 Accordingly,

- 12 1. The findings and recommendations issued on June 3, 2021 (Doc. No. 21) are
13 adopted in part;
- 14 2. This action is dismissed for plaintiff's failure to obey a court order; and,
- 15 3. The Clerk of the Court is directed to assign a district judge to this action for
16 purposes of closure and to close this case.

17 IT IS SO ORDERED.

18 Dated: July 30, 2021

19 
UNITED STATES DISTRICT JUDGE